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UNCLAS SECTION 01 OF 05 ULAANBAATAR 000695

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STATE FOR EAP/CM, G/TIP AND EEB
STATE FOR DOL/ILAB for Tina McCarter
STATE FOR DRL/IL for Tu Dang

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SUBJECT: UPDATE ON WORST FORMS OF CHILD LABOR IN MONGOLIA

REF: SECSTATE158223

¶1. Per reftel, Post provides the following information on whether Mongolia, eligible for trade benefits under the Generalized System of Preference (GSP) program, is implementing its international commitments to eliminate the worst forms of child labor, as required under the Trade and Development Act (TDA) of 2000.

¶2. SUMMARY: Despite a legislative framework that prohibits compulsory labor and sets the minimum working age at 16 (with exceptions), insufficient implementation capacity leaves children vulnerable to labor exploitation without adequate protections. Harsh economic realities and widespread alcoholism often force young children to work to support their families. Many rural children are engaged in domestic work, including herding. Although difficult to quantify, indications are that trafficking for labor or sexual exploitation (both domestically and internationally) is slightly on the rise. Mongolia has ratified Convention 182 but has yet to develop a "worst forms of child labor" list, as called for in Article 4 of the Convention. In addition to engaging in programs and strategies to address child labor issues, the GOM is also participating in a US\$2.9 million USDOL-funded ILO-IPEC project to combat the worst forms of child labor, and has initiated two welfare programs to support children of poorer families. END SUMMARY.

Laws and regulations prescribing the worst forms of child labor.

¶3. Mongolia's Constitution and Labor Law prohibit forced or compulsory labor, including by children, and the GOM generally enforces this provision. The law also stipulates 16 years as the minimum age for employment, but children who are 14 or 15 years of age may work up to 30 hours per week with parental consent. The Labor Law also provides a legal basis for determination of hazardous forms of work: Children under 18 may not work at night, in arduous, noxious or hot conditions, or underground. They are also prohibited from working overtime, on public holidays, or on weekly rest days.

Mongolian law prohibits the use of children in forced labor, illicit activities, begging, slavery, and work that is harmful to their health, morals, or safety. The minimum age for military conscription is 18.

¶4. Children 15 years old may work with the permission of a parent or guardian, as long as employment does not harm their health, physical growth, or moral status. Those 14 years old may work in vocational education programs with the consent of a parent or guardian. Children aged 14 or 15 may not work more than 30 hours per week, and those 16 or 17 years may not work for more than 36 hours.

¶5. Based on Article 109.5 of the Labor Law, the Minister of Labor and Social Welfare in 1999 established a list of hazardous jobs prohibited for children. This included 326 types of hazardous jobs covering 36 areas of economic activity. (Source: Ministry of Health [MOH]). The worst forms of child labor, such as forced child labor and trafficking or child prostitution and pornography, are also regulated by the Labor Law, the Law on Protecting Children's Rights, the Criminal Law, the Law on Combating Prostitution and Pornography, and the Law on Export and Import of the Labor Force.

¶6. Although Mongolia has ratified Convention 182, the GOM has yet to issue/approve a list of occupations considered to be the "worst forms of child labor," as called for in Article 4 of the Convention. Nevertheless, the GOM issued its own independent list of "Hazardous Jobs Prohibited for Children under 18". The GOM is now working on amending this list by including occupations considered to be worst forms of child labor. (Source: MOH and ILO)

Regulations for implementation and enforcement of proscriptions against the worst forms of child labor.

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¶7. Under the Labor Law, forcing a child to work is punishable by imprisonment for up to four years or fines. Trafficking of a minor is punishable by imprisonment for five to ten years; if committed by an organized group, the term of imprisonment increases to ten to 15 years. Production and dissemination of pornographic materials involving a person under the age of 16 is punishable by imprisonment for three to six months or fines. Involving a minor in prostitution is also illegal, and if the crime is committed repeatedly, or by using violence or threats, it is punishable by a prison term of three to five years or fines.

¶8. The Ministry of Social Welfare and Labor's (MOSWL) Department of Employment and Social Welfare Service shares responsibility for child-labor issues with the National Department for Children (NDC). The MOSWL presides over the Labor Code, while the NDC administers the National Plan of Action for the Protection and Development of Children (2002-2010).

¶9. There are currently 49 state labor inspectors assigned to regional and local offices who are responsible for enforcing all labor laws. There are no inspectors dedicated solely to investigating child-labor issues. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the relatively small number of labor inspectors and the growing number of independent enterprises. The Committee on the Rights of the Child has expressed concern about the insufficient number of implementation measures and some contradictory provisions of domestic laws that leave children without adequate protection, including the ability of children to engage in work before reaching the compulsory school age.

¶10. In 2007, there were five cases of industrial injuries involving children. As a result, three children died, one child became physically disabled and another was temporarily unable to work. Between 2003 and 2006, a total 14 children were injured in industrial accidents. (Source: State Specialized Inspection Agency)

¶11. The MOSWL is the lead government agency on trafficking issues, but the Ministry of Justice and Home Affairs enforces trafficking-related laws. Contacts within the Government generally

acknowledge that legal provisions regarding trafficking are weak and need to be amended.

Social programs specifically designed to prevent and withdraw children from the worst forms of child labor.

¶12. The Government of Mongolia is participating in a US\$2.9 million U.S. Department of Labor-funded ILO-IPEC project. The Mongolia Timebound Program, which is set to run through 2009, is designed to strengthen the country's ability to take action against the worst forms of child labor in Mongolia and to develop an area-based intervention model at the local level, targeting children at risk or engaged in the worst forms of child labor. The program targets children who are involved in mining, commercial sexual exploitation, or who work at dumpsites or marketplaces, or in herding or domestic work. The project aims to rescue an estimated 2,700 children from the worst forms of child labor and prevent 3,300 children from engaging in child labor.

¶13. In 2005, the GOM initiated a monthly social entitlement program for children of poorer families, providing 3,000 Tugriks (US\$ 2.50) per child under 18 years of age on the condition that the children are living with their families, are regularly attending classes if they are of compulsory school age, and are not engaged in the worst forms of child labor. On January 1, 2007 the GOM implemented an annual Child Stipend of 100,000 Tugriks (about US\$85) that is doled

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out in quarterly installments. So far, a total of 927,840 children have benefited from this stipend from January through October 2007.

¶14. December 2006 amendments to the Education Law of Mongolia institutionalized per-student-based funding for Non-Formal Education (NFE) training of children who drop out of school. Based on this amendment, the Ministry of Education, Science and Culture issued a decree in October 2007 on the implementation and mechanics of this program, aimed at increasing the funding and improving quality of NFE training. (Source: MOH and ILO). The GOM continues to encourage and support children of poorer families who attend school by providing school items. In 2006, a total of 62,500 children received assistance worth 800 million MNT.

Policies aimed at the elimination of the worst forms of child labor.

¶15. The GOM has a comprehensive policy on child labor based on several legal sources, including the Constitution, the Labor Law, the Law on Protecting Children's Rights, State Policy on the Development of the Population of Mongolia, State Policy on the Development of Mongolian Families, the GOM's Social Welfare Sector Strategy Paper, and the National Program on Development and Protection of Children. (Source: MOH)

¶16. The National Program on Development and Protection of Children was approved in 2002 and covers the period from 2002 to 2010. One of its principal goals is the elimination of the worst forms of child labor. Mongolia's national trafficking-in-persons (TIP) program inaugurated in November 2005 also addresses the worst forms of child labor.

¶17. In May 2007, the National Council for Children, chaired by the Prime Minister, approved a National Advocacy Strategy to combat the worst forms of child labor, with the overall goal of raising awareness at all levels and sustaining efforts and partnership in addressing the worst forms of child labor.

¶18. The GOM has been collaborating with ILO-IPEC since November 1999 on raising awareness, improving data collection, building institutional capacity and removing and preventing children from child labor. The ILO-IPEC projects have been funded by the U.S. Department of Labor. The current support project of the ILO-IPEC is working toward establishing the proper legal and regulatory environment (policy, legislation, capacity building, data, etc.) and developing area-based integrated responses to the worst forms of

child labor. (Source: MOH and ILO)

¶19. Mongolian law provides for free and compulsory public education for children through the age of 16. However, family economic needs and state budgetary troubles have made it difficult for some children to attend school. Furthermore, many schools solicit additional cash from children and their families for minor classroom upgrades, improvements to class furniture, etc., and teachers often force children and their families to purchase extra-curricular learning materials from them. To halt this practice, recent amendments to the Education Law explicitly prohibit school administrators or teachers from imposing such illegal payments and fees on the students/children. (Source: ILO)

¶20. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, often herding, and schools generally were located far from home. In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

Industries where child labor occurs;

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Child labor by age and gender.

¶21. Mongolia's industrial base is still very narrow and there is no known systematic exploitation of children in industries or in production of certain goods; nor are there any known or reported cases of slavery or practices similar to slavery. However, there is rising concern among NGOs that exploitation of child labor could be growing in the construction sector, which is experiencing a significant increase in investment and jobs. (Source: ILO)

¶22. According to the Ministry of Health, 90% of children who work do so for family-run businesses for no salary, 8% run their own business, and less than 2% work in official sectors such as the processing industry, mining and minerals extraction, and construction. 8.7 % of all boys and 5.7% of all girls between the ages of 5 and 14 are involved in some kind of labor, whereas between the ages of 15 to 17 years, 22.1% of boys and 14.9% girls work. Estimates place the total number of children in the labor force as high as 58,000. Increasing alcoholism and parental abandonment have made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents.

¶23. Of all children working, 91.7% are engaged predominantly in the agricultural sector, mainly in herding. Boys generally herd and tend to livestock, while girls are assigned domestic tasks such as milking cows and producing dairy products, collecting animal dung for fire, preparing food, washing, shearing wool, and gathering fruit and nuts.

¶24. The remaining percentages are spread out among various sectors including processing (1.0%), mining and extraction (0.8%), and hotels and catering (0.5 %). (Source: Ministry of Health.) Children as young as five are engaged in informal gold and fluorspar mining, usually as part of an informal family business. These children face severe health hazards, such as exposure to mercury and handling of explosives in the mines. Children working in mining are also vulnerable to drug abuse and sexual exploitation. The National Human Rights Commission of Mongolia estimates that there are 40 to 50 horse racing events each year, and at each event, as many as 2,000 children between aged six to 16 may be engaged as jockeys. Horse racing poses risks to the life and health of the children involved.

¶25. In urban areas, children sell goods, wash cars, polish shoes, collect and sell coal and wood, and work as porters. Other notable sectors where children work are wholesale and retail trade, mining (informal), and restaurants and canteens. The second National Child Labor Survey report will be released in early 2008. (Source: ILO.) Children also work informally in petty trade, scavenging in dumpsites, and working in factories.

Trafficking of Children for commercial sex or for labor exploitation.

¶26. Trafficking reportedly has increased in Mongolia over the last few years but remains difficult to quantify. Most victims do not file police reports or approach NGOs. Mongolian girls and women are trafficked internally or to the People's Republic of China, Macau, and South Korea for commercial sexual exploitation. Sexual exploitation of children in Ulaanbaatar is also on the increase. In many cases, young girls are engaged in sex work via the assistance or deception of pimps or private establishments such as karaoke bars and massage parlors. (Source: MOH and ILO)

¶27. The Gender Equality Center, a Mongolian NGO that combats trafficking of women and children, said it had received reports of twelve cases of trafficking in 2007, only five of which were under

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official investigation by the State Investigation Bureau. (Source: ILO) Two of the cases involved trafficking for labor exploitation; two girls, aged 16 and 17, were trafficked to China's Hunan province to work at a sauna. They were sold along with five other adults for 3,000 Yuan (approximately US\$405) per person.

¶28. Ten of the twelve cases involved trafficking for sexual exploitation (one boy and nine girls). Five were cases of domestic trafficking, of which two were still under investigation (two girls, 16 and 17 years old, were kidnapped off the street and forced to work at local hotels). The remaining five cases were reported as trafficking across national borders, only one of which is still under investigation; that of a 17-year-old girl who was taken to the Chinese border city of Erlian, for sex work. The four other cases also involved girls who were trafficked to Erlian. In all cases, the traffickers were Mongolian nationals.

¶29. Furthermore, the results of a 2007 survey done jointly by UNICEF, the Gender Equality Center and World Vision showed that of the 48 Mongolian female respondents who were victims of sexual exploitation in Beijing, Hong Kong, Macao and South Korea, 4 (or 8.3%) were girls between the age of 16 and 17. Women and girls who were trafficked to China most often worked in discos (in Beijing), at nightclubs and on the street (in Hong Kong), and at saunas (in Macau). (Source: ILO and UNICEF)

¶30. In 2007, the GOM continued to provide assistance to child victims of commercial sexual exploitation, through a police program that encourages their re-entry into school.

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